

§ 50.73

the policyholder and is payable to the insurer with the premium for a property and casualty insurance policy in effect during the assessment period established by Treasury. *See* § 50.74(c).

§ 50.73 Notification of recoupment.

(a) Treasury will provide notifications of recoupment through publication of notices in the FEDERAL REGISTER or in another manner Treasury deems appropriate, based upon the circumstances of the act of terrorism under consideration.

(b) Treasury will provide reasonable advance notice to insurers of any initial Federal Terrorism Policy Surcharge effective date. This effective date shall be January 1, unless such date would not provide for sufficient notice of implementation while meeting the collection timing requirements of section 103(e)(7)(E) of the Act.

(c) Treasury will provide reasonable advance notice to insurers of any modification or cessation of the Federal Terrorism Policy Surcharge.

(d) Treasury will provide notification to insurers annually as to the continuation of the Federal Terrorism Policy Surcharge.

§ 50.74 Collecting the Surcharge.

(a) Insurers shall collect a Federal Terrorism Policy Surcharge from policyholders as required by Treasury.

(b) Policies subject to the Federal Terrorism Policy Surcharge are those for which direct written premium is reported on commercial lines of business on the NAIC's Exhibit of Premiums and Losses of the NAIC Annual Statement (commonly known as Statutory Page 14) as provided in § 50.5(u)(1), or equivalently reported.

(c) For policies subject to the Federal Terrorism Policy Surcharge, the Surcharge shall be imposed and collected on a written premium basis for policies that incept or renew during the assessment period. All new, renewal, mid-term, and audit premiums for a policy term are subject to the Surcharge in effect on the policy term effective date. Notwithstanding this paragraph, if the premium for a policy term that would otherwise be subject to the Surcharge is revised after the end of the reporting period described in § 50.75(e), then any

31 CFR Subtitle A (7-1-11 Edition)

additional premium attributable to such revision is not subject to the Surcharge. For purposes of this subpart:

(1) Written premium basis means the premium amount charged a policyholder by an insurer for property and casualty insurance as defined in § 50.5(u), including all premiums, policy expense constants and fees defined as premium pursuant to the Statements of Statutory Accounting Principles established by the National Association of Insurance Commissioners, as adopted by the state for which the premium will be reported.

(2) In the case of a policy providing multiple insurance coverages, if an insurer cannot identify the premium amount charged a policyholder specifically for property and casualty insurance under the policy, then:

(i) If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is *de minimis* to the total premium for the policy, the insurer may impose and collect from the policyholder a Surcharge amount based on the total premium for the policy, but

(ii) If the insurer estimates that the portion of the premium amount charged for coverage other than property and casualty insurance is not *de minimis*, the insurer shall impose and collect from the policyholder a Surcharge amount based on a reasonable estimate of the premium amount for the property and casualty insurance coverage under the policy.

(3) The Federal Terrorism Policy Surcharge is not considered premium.

(d) A policyholder must pay the applicable Federal Terrorism Policy Surcharge when due. The insurer shall have such rights and remedies to enforce the collection of the Surcharge that are the equivalent to those that exist under applicable state or other law for nonpayment of premium.

(e) When an insurer returns an unearned premium, or otherwise refunds premium to a policyholder, it shall also return any Federal Terrorism Policy Surcharge collected that is attributable to the refunded premium. Notwithstanding this paragraph, if the written premium for a policy is revised